

Application No.: 10/509,748

REMARKS

The drawings are objected to for an alleged informality in Figures 1 and 5. It is respectfully submitted that the enclosed replacement sheets for Figures 1 and 5 obviate the alleged informality. Accordingly, it is respectfully requested that this objection be withdrawn.

Claim 8 stands rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite based on the phrase "nearly coincident." It is respectfully submitted that the enclosed amendment obviates the alleged indefiniteness. Accordingly, it is respectfully requested that this rejection be withdrawn.

Claim 1 is independent and stands rejected under 35 U.S.C. § 103 as being unpatentable over Lee '106 ("Lee") in view of Outzen '693 ("Outzen"). This rejection is respectfully traversed for the following reasons.

Claim 1 recites in pertinent part, "the cylinder head is formed with a discharge chamber and a *resonance* chamber which communicates one side opened connection pipe; a flange is disposed at an outer periphery of the connection pipe; the cylinder head is provided with a groove at a position corresponding to the flange; and the flange is fitted in the groove, *thereby forming a seal portion*" (emphasis added). The present invention is directed to a compressor-type which utilizes a resonance chamber for reducing noise. As described in Applicants' specification, one of the drawbacks of such a conventional compressor-type is the leakage that occurs *specifically at the interface of the resonance space and connection pipe*.

The Examiner alleges that the mounting chamber 31 of Lee reads on the claimed "resonance chamber." However, as one of ordinary skill in the art would readily recognize, the chamber 31 is NOT a resonance chamber. Rather, as expressly disclosed by Lee, the mounting

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chamber 31 is merely an accommodating space for the base muffler 20 (*see* col. 4, lines 11-13). The accommodating space 31 of Lee is NOT structurally configured as a resonance space. For example, as clearly evident in Figures 8-9 of Lee, the mounting chamber 31 accommodates *only a portion* of the base unit 24, thereby evidencing that chamber 31 is not structurally configured as a resonance chamber nor arranged within the compressor in a manner that would be benefited from leakage prevention. That is, the partial accommodation itself evidences a lack of a sealing requirement for the interface between the base unit 24 and mounting chamber 31.

Again, Lee is directed to a different compressor-type in which a resonance chamber and associated sealing are not relevant. It follows that the configuration of the flange 22 has no disclosed need or desire to be modified for improving sealing. In short, Lee is completely unrelated to the compressor-type which utilizes a resonance chamber for reducing noise, and therefore has no disclosed need or desire for improving the specific interface-seal between a resonance space and connection pipe. Instead, Lee's disclosed purpose is described as follows (col. 5, lines 1-9; emphasis added):

when the piston 55 is driven in the arrowhead direction illustrated in FIG. 4, refrigerant residually remaining in the body 50 is sucked into the suction muffler 10 through the holes 100 *to thereby maintain a vacuum in the suction muffler 10 at an appropriate level.*

Consequently, there is no such thing as an occurrence where the crankshaft 53 and the piston 55 are excessively loaded due to an excessive vacuumized state in the suction muffler, as is noticed in the prior art.

Accordingly, any alleged teachings derived from Outzen are not attributable to the device of Lee, much less based on the Examiner's relied on motivation of providing a seal to prevent leaking. Again, the configuration of the flange 22 in Lee has no disclosed need or desire to be modified for improving sealing.

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Moreover, similarly to the discussion above regarding Lee, Outzen also is related to a non-resonance type compressor, whereby the alleged leakage improvement related to the flange has nothing to do with preventing leakage specifically in a resonance-type compressor which faces different issues than the device of Outzen. Accordingly, it is respectfully submitted that the Examiner's proposed combination is based solely on improper hindsight reasoning, whereby the Examiner selected bits and pieces of the cited prior art and used only Applicants' specification as a motivational guide to reconstruct the claimed invention.

Only Applicants have recognized and considered the issues related to leakage *specifically at the interface of a resonance chamber*, and conceived of a novel and non-obvious *combination* of a resonance chamber with a particular flange configuration which can make it possible to obviate such leakage. Neither Lee nor Outzen are related to a compressor-type which includes resonance chambers. Outzen at best describes only a seal structure *generally* for an unrelated compressor-type in which the leakage issues are wholly different from those in the claimed compressor-type (resonance chamber), as described in Applicants' specification.

The Examiner is directed to MPEP § 2143.03 under the section entitled "All Claim Limitations Must Be Taught or Suggested", which sets forth the applicable standard for establishing obviousness under § 103:

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (citing *In re Royka*, 180 USPQ 580 (CCPA 1974)).

In the instant case, the pending rejection does not "establish *prima facie* obviousness of [the] claimed invention" as recited in claim 1 because the proposed combination fails the "all the claim limitations" standard required under § 103.

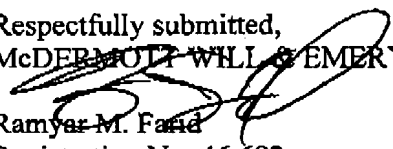
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Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claim 1 is patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also patentable. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination. Based on the foregoing, it is respectfully submitted that all pending claims are patentable over the cited prior art. Accordingly, it is respectfully requested that the rejections under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,
McDERMOTT WILL & EMERY LLP


Ramyar M. Farid
Registration No. 46,692
Please recognize our Customer No. 53080 as
our correspondence address.

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 RMF:bjs:MaM
Facsimile: 202.756.8087
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